

STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION
895 Aerovista Place, Suite 101
San Luis Obispo, California 93401-7906

WASTE DISCHARGE REQUIREMENTS ORDER NO. R3-2007-0050

For

ARLEN HAFFNER
CASA DE MONTGOMERY
WASTEWATER TREATMENT FACILITY
SANTA CRUZ COUNTY

The California Regional Water Quality Control Board, Central Coast Region (Board), finds that:

1. **Discharger.** Arlen Haffner (Discharger) collects, treats and disposes of domestic wastewater to land from a boarding house.
2. **Purpose and basis of Order.** This Order prohibits discharge of wastewater from the existing treatment and disposal facilities. This Order also rescinds Order No. 01-037, which includes discharge specifications and limitations for the discharge. The Board finds the rescission is necessary because the Discharger, although the Executive Officer notified or attempted to notify the Discharger numerous times, has not complied with Order 01-037. Further, the Discharger did not submit annual fees or monitoring reports for the past three years (except that he paid fees for the 2006-2007 fiscal year) and repeatedly refused to accept official mail the Board sent to his address of record.
3. **Facility owner and location.** The Discharger owns and operates a domestic wastewater collection, treatment, and disposal system at a boarding house located at 4573 Branciforte Road, Santa Cruz County (the Facility). The Discharger lives onsite in the former gatehouse, which is served by a separate septic tank and leachfield system. This separate system is not considered part of the Facility.
4. **Wastewater characteristics.** Domestic wastewater includes human waste, sanitary wastewater and gray water, and includes elevated concentrations of nitrogen and phosphorus, solids, oil and grease, oxygen demanding compounds, and pathogens.
5. **Design and capacity.** The system consists of sewers, two 3,000-gallon septic tanks, a pump station, and evaporation/percolation ponds. The estimated treatment system capacity was 3,500 gallons per day until Order No. 01-037 Specification No. 3 required the Discharger to remove half the nitrogen from the wastewater. Since the Board adopted the Order on May 18, 2001, the Discharger has not demonstrated that the existing treatment system removes half the nitrogen nor has he installed a system capable of doing so.
6. **Basin Plan.** The Board adopted the *Water Quality Control Plan, Central Coastal Basin* (Basin Plan) on September 8, 1994. The Basin Plan incorporates statewide plans and policies by reference and contains a strategy for protecting beneficial uses of Branciforte Creek and other surface waters.
7. **Surface waters.** An unnamed intermittent stream flows southeasterly approximately 100 feet southwest of the percolation ponds before entering Branciforte Creek. Branciforte Creek flows for approximately

six miles before entering Carbonera Creek and ultimately the San Lorenzo River.

8. Surface Waters Beneficial Uses.

Existing and anticipated beneficial uses of Branciforte Creek include:

- a. Municipal and domestic supply;
- b. Water contact recreation;
- c. Ground water recharge;
- d. Industrial service supply;
- e. Water-contact recreation;
- f. Non-contact water recreation;
- g. Wildlife habitat;
- h. Cold freshwater habitat;
- i. Fish migration;
- j. Fish spawning;
- k. Preservation of biological habitats of special significance;
- l. Protection of rare, endangered, or threatened species;
- m. Freshwater replenishment; and
- n. Commercial and sport fishing.

9. Groundwater beneficial uses. Existing and anticipated beneficial uses of groundwater in the vicinity of the discharge include:

- a. Domestic supply,
- b. Agricultural supply,
- c. Industrial process supply, and
- d. Industrial service supply.

10. Wastewater management plan. The San Lorenzo Wastewater Management Plan (WWMP), adopted by Santa Cruz County Board of Supervisors, was approved by the Regional Board on April 5, 1995, as Resolution No. 95-04. The WWMP includes findings and recommendations resulting from investigation of elevated nitrate levels in surface water and groundwater in the San Lorenzo River watershed. The WWMP recommends the Regional Board require nitrogen control measures in the issuance of new or revised waste discharge requirements. The WWMP's goal is for onsite disposal systems to reduce nitrogen by at least 50 percent.

11. Order No. 01-037 requires 50 percent reduction of nitrogen in effluent, consistent with Resolution No. 95-04.

12. Authority to Prohibit Discharge.

California Water Code section 13243 provides that a Regional Board, in waste discharge requirements, may specify conditions or areas where the discharge of waste, or certain types of waste, will not be permitted. Water Code section 13263(a) states that the Board shall issue requirements for existing discharges. Water Code section 13263(d) allows the Board to issue waste discharge requirements even though no report of waste discharge has been filed. The requirements specified in this Order are consistent with both the Basin Plan and Water Code Section 13243 and 13263 and are necessary to protect beneficial uses of Branciforte Creek and the San Lorenzo River, and to comply with State Water Board Resolution No. 68-16 (Anti-Degradation Policy).

13. Water Code Section 13241. The Board has considered the factors set forth in Water Code section 13241. The beneficial uses of Branciforte Creek and nearby groundwater have been approved pursuant to state law. Surface water designations have been approved by USEPA. The requirements of the Order take into consideration past, present, and probable future beneficial uses of the receiving surface and ground waters, and the environmental characteristics, including water quality, of the Big Basin Hydrologic Unit.

14. Obtaining coordinated control of all factors which affect water quality in the area would not allow the Discharger to continue discharging in violation of all Board orders and requirements. The-discharge cannot be recycled and is irrelevant to the need to develop and use recycled water. The need for housing in the region and economic considerations, including the loss of rental income to the Discharger or the cost of complying with the Board's

orders, do not outweigh the need to protect beneficial uses and to prevent unregulated discharges.

15. **California Environmental Quality Act (CEQA).** This Order disapproves continued operation of the Facility and is therefore not an approval of a project subject to the California Environmental Quality Act (Public Resources Code section 21080(b)(5)). Even if this Order is a project, it rescinds the Discharger's prior waste discharge requirements and prohibits further discharge in order to protect the environment, and as such, is exempt from the provisions of the California Environmental Quality Act, in accordance with Title 14, California Code of Regulations, Chapter 3, Sections 15307, 15308 and 1321.

16. **Existing Order.** The discharge has been regulated by Waste Discharge Requirements Order No. 01-037, adopted by the Regional Board on May 18, 2001. The Regional Board has regulated the discharge from Casa de Montgomery since April 11, 1969.

17. Discharge of waste is a privilege, not a right, and authorization to discharge is conditional upon the discharge complying with provisions of Division 7 of the California Water Code and any more stringent effluent limitations necessary to implement water quality control plans, to protect beneficial uses, and to prevent nuisance.

18. On **June 4, 2007**, the Regional Board notified the Discharger and interested agencies and persons of its intent to adopt waste discharge requirements for the discharge, and has provided them with a copy of the proposed Order and an opportunity to submit written views and comments.

19. **Public Hearing.** In a public hearing on July 6, 2007, the Board heard and considered all comments pertaining to the discharge and found this Order consistent

with the above findings.

19. **Right to Petition.** Any person affected by this action of the Board may petition the State Board to review the action in accordance with Section 13320 of the California Water Code and Title 23, California Code of Regulations, Section 2050. The State Board must receive the petition within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request.

IT IS HEREBY ORDERED pursuant to authority in sections 13243 and 13263 of the California Water Code, that the Permittee, its agents, successors, and assigns, to meet the provisions contained in Division 7 of the California Water Code and regulations adopted thereunder, shall comply with the following:

A. PROHIBITIONS

The following is prohibited:

1. The discharge of domestic wastewater to or from the Facility, including the boarding house, sewer, treatment system, or disposal system (including all components of the onsite septic system).

B. PROVISIONS

1. Order No. 01-037, *Waste Discharge Requirements for Casa de Montgomery Inc., Santa Cruz County*, adopted by the Regional Board on May 18, 2001, is hereby rescinded.

As provided by CWC Section 13350(a), any person may be civilly liable if that person in violation of a waiver condition or waste discharge requirements, discharges waste, or causes waste to be deposited where it is discharged, into the waters of the State.